



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)

(Implements RCW 34.05.310)
Do NOT use for expedited rule making

Agency: Department of Revenue

Subject of possible rule making: WAC 458-20-193, Inbound and outbound ((interstate)) sales of tangible personal property from or to persons in other states or foreign countries and WAC 458-20-193C, Imports and exports – Sales of goods from or to persons in foreign countries

Statutes authorizing the agency to adopt rules on this subject: RCW 82.32.300 and 82.01.060(2)

Reasons why rules on this subject may be needed and what they might accomplish: See attachment.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: There are no other federal or state agencies that regulate the subject matter of these rules.

Process for developing new rule (check all that apply):

- ☐ Negotiated rule making
☐ Pilot rule making
☐ Agency study

X Other (describe) Parties interested in this rule making may contact the individual listed below. The public may also participate by providing written comments throughout this rule making or giving oral testimony at the public meeting or public hearing.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

Written comments may be submitted by mail, fax, or at the public meeting. Oral comments will be accepted at the public meeting. A preliminary draft of the proposed changes is available upon request. Written comments on and/or requests for copies of the rule may be directed to: Gilbert Brewer, Interpretations and Technical Advice Unit, P. O. Box 47453, Olympia, WA 98504-47453; phone: (360) 570-6133; FAX (360) 586-5543.

Public meeting location:

Capitol Plaza Building
4th Floor -- Executive Large Conference Room
1025 Union Avenue SE
Olympia, Washington

Date: June 22, 2005 **Time:** 1:30 p.m.

Date

Name (type or print)

Janis P. Bianchi

Signature

Title

Manager, Interpretations & Technical Advice Unit

CODE REVISER USE ONLY

Filed: May 18, 2005

Time: 8:35 a.m.

WSR: 05-11-096

The above information was input by DOR.



STATE OF WASHINGTON
DEPARTMENT OF REVENUE

WAC 458-20-193 Inbound and outbound interstate sales of tangible personal property
WAC 458-20-193C Imports and exports--Sales of goods from or to persons in foreign countries

Attachment for CR 101 form

Reasons why rules on this subject may be needed and what they might accomplish:

WAC 458-20-193 (Rule 193) explains the application of business and occupation (B&O) and retail sales taxes to interstate sales of tangible personal property. WAC 458-20-193C (Rule 193C) explains the application of B&O and retail sales taxes to sales of tangible personal property from or to persons in foreign countries.

The Department is considering a revision of Rule 193 to:

- Change the determining factor for where a sale of tangible personal property takes place from "receipt" to "delivery," and to provide detailed information and examples on what constitutes delivery;
- Eliminate the ability of taxpayers to "dissociate" sales made in Washington if the sales are not significantly associated in any way with the taxpayer's in-state activities that establish or maintain a market for its products. The Department believes that "dissociation" is an outdated notion that is not consistent with current U.S. Supreme Court jurisprudence defining the boundaries of state taxation of interstate commerce;
- Provide information about the taxability of drop shipments; and
- Update and incorporate the subject matter of Rule 193C. The information in Rule 193C will be updated to reflect current U.S. Supreme Court Commerce Clause jurisprudence, and this information will be added to Rule 193. Rule 193C will be repealed. Consolidating these rules will provide the information to the public in a more efficient and user-friendly manner.